

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Neil Ankeny,
Petitioner-Appellant,

v.

Palo Alto County Board of Review,
Respondent-Appellee.

ORDER

**Docket No. 10-74-0286
Parcel No. 604044001140**

On July 5, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Neil Ankeny, was self-represented and requested the appeal take place by telephone. The Palo Alto County Board of Review designated County Attorney Lyssa Henderson as its legal representative and also participated by phone. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Neil Ankeny, owner of property at 103 Ford Road, Emmetsburg, Iowa, appeals from the Palo Alto Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2010, assessment and valued at \$349,180; representing \$74,340 in land value and \$274,840 in dwelling value.

Ankeny protested to the Board of Review on the grounds that the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a) and that the property was assessed for more than authorized by law under section 441.37(1)(b). In response to the protest, the Board of Review notified Ankeny the January 1, 2010, assessment would not change, stating, "The Board does not have jurisdiction to hear any grounds of protest other than downward change in value."

Ankeny filed his appeal with this Board and urged the ground of over-assessment and downward change in value was also indicated in the protest form plain statement. Ankeny did not claim change before the Board of Review. Because no new grounds can be appealed to this Board if they were not pled to the Board of Review, we will not consider downward change in value. Additionally, we note that the 2010 assessment was the same as the 2009 assessment making this an interim year and change in value since the last reassessment is the only available protest ground.

Ankeny claims \$267,821 allocated \$57,019 to the land value and \$210,802 to the dwelling value is the actual value and fair assessment of the subject property.

Ankeny presented two properties that sold in the subject property's neighborhood. One property, known as Lot 36 in Rockport First Addition, sold in September 2009 for \$390,000 and was assessed at \$521,300. Ankeny asserts the sale was 75% of the purchase price. We also note, as pointed out, that this sale price appears to have included the sale of some personal property. The second sale was Lot 54 in the same subdivision, which sold in December 2010. This Board notes that the sale of this property took place almost a year after the January 1, 2010 assessment date. This property sold for \$168,750 and its assessment was \$231,960. Ankeny again notes the sale price was approximately 73% of the assessed value.

Based on the two sales, Ankeny determined the subject property should be reduced 24%, which would be \$265,376.

The Palo Alto Board of Review requested this Board deny the appeal since Ankeny failed to prove a downward change in value. However, we did not rule on its motion at hearing.

Lois Naig testified regarding home sales in Emmetsburg and vacant lot sales in the area. She is of the opinion that the sales data supports the Board of Review's value.

Proof of the subject property's actual value on January 1, 2009, as compared to January 1, 2010, value is necessary to show change in value. Although Ankeny's evidence may suggest the

property might be over-assessed if this was a regular assessment year. The evidence does not demonstrate there has been a downward change in value since the previous assessment.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).


In a non-reassessment or "interim" year, when the value of the property has not changed, a taxpayer may challenge its assessment on the basis that there has been a downward trend in value. *Eagle Food Ctrs., Inc. v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 862 (Iowa 1993).

The last unnumbered paragraph of Iowa Code section 441.37(1) and its reference to section 441.35(3) give rise to the claim of downward trend in value. For a taxpayer to be successful in its claim of change in value, the taxpayer must show a change in value from one year to the next; the beginning and final valuation. *Equitable Life Ins. Co. of Iowa v. Bd. of Review of the City of Des Moines*, 252 N.W.2d 449, 450 (Iowa 1997) The assessed value cannot be used for this purpose. *Id.* Essentially, it is not enough for a taxpayer to prove the last regular assessment was wrong; such a showing would be sufficient only in a year of regular assessment. *Id.* at 451.

We find a preponderance of the evidence does not prove there has been a change in value of Ankeny's property since the last assessment.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the Palo Alto County Board of Review is affirmed.

Dated this 4 day of August 2011.


Richard Stradley, Presiding Officer


Karen Oberman, Board Member

Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>8-8</u> , 20 <u>11</u> .	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	